

FILED (42)
HARRISBURG, PA 17101
FEB 19 2003
MARY E. D'ANDREA, CLERK
Deputy Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AMANDA BARGE, et ux.,

* NO. 1:00-CV-1881

Plaintiffs

*

v.

* CIVIL ACTION - LAW

DAVID J. SALINGER, M.D., et al.,

* Judge Conner

Defendants

* JURY TRIAL DEMANDED

*

PLAINTIFF'S VOIR DIRE

1. How do you feel about medical negligence law suits? How do you feel about people filing claims against doctors or treatment centers for medical negligence?
2. Are any family members, relatives or close friends involved in the health care industry?
3. Have any of your family members or close friends been cured by a doctor as a result of treatment so that protective feelings might exist towards doctors?
4. Do you agree that if a doctor or other medical professional commits malpractice that causes injury to his patient, it is fair to award damages to compensate that patient for the injuries?
5. Does anyone think it would be fair to turn away a patient without compensation if her doctor has injured her by treating her in a negligent manner?
6. You know one reason the jury trial system exists, is to protect the rights of individuals. One of those rights is the right to be free from injuries caused by the negligence of others. The only way we can protect and enforce that right, it by compensating the injured

plaintiff with monetary award. Is each of you prepared to protect that right in this case by awarding money damages to the plaintiffs if you find that either of them was injured by a doctor or other medical professional's negligence?

7. Keeping in mind that this case is nothing more nor less than a suit for professional negligence of a doctor and a physicist, I would like to ask you these questions:

a. Do any of you have any feelings about this kind of case, any reaction to it, positive or negative, about someone who comes into court in a medical professional negligence case?

b. Would you hesitate to apply justice (fairness) and hold the defendant doctors liable just because he is a doctor?

c. If you find that the defendant is liable, would you feel that he should be given a greater break in assessing damages than you or I or any other person simply because he is a doctor?

d. Does any prospective juror feel doctors can do no wrong? Can never be negligent or above the law or more likely to tell the truth because they are doctors?

e. Does any one feel doctors should not be held accountable even if they have been negligent in treating a patient and severe injuries resulted from that negligence?

f. Are any of you or your family members presently under a doctors supervision and treatment? Do you or they see him or her regularly?

g. Have you or they ever had radiation therapy? Are you or they scheduled to have radiation therapy?

h. Have you or they ever been hospitalized? Where? When? Would what you know and/or have experienced make it so you would be unable to be fair to any party in this law suite?

i. Do any of you have any experience with skin cancers or radiation therapy? Do you know anything about it?

8. If evidence establishes that the defendants or either of them, were negligent in failing to properly treat the plaintiff and plaintiff had injury as a result, would you be willing to give plaintiff 100 percent justice and fairness even though that meant returning a verdict for a very large sum of money?

9. In other words, would you reduce the amount of a verdict which gives the plaintiff 100 percent justice and fairness simply because when it is all added up it seems like a lot of money?

10. Would you disagree with the proposition that law suits protect the public by making the medical profession more accountable?

11. Do you believe medical negligence lawsuits hurt the public by driving up the costs of health care?

12. Do you believe that doctors or other medical professionals have very vital function to society and therefore should be accorded some special consideration or treatment when their actions are being judged in a court of law?

13. Under our civil justice system, a person who is injured personally, as in a car accident, or in business, by the negligence of another, has the right to come to court and seek damages for those injuries or claims. Do you have any quarrel with that proposition?

14. You understand that if the plaintiff can prove to you that her injuries were caused by the defendant's negligence, you will be asked to fully compensate her for those injuries. You do not have any problem with that do you?

15. What concerns do you have about giving people money for injuries they have suffered?

16. Have you or any of your family ever had any training or have you ever taken any courses of any kind in medical care?

17. Do any of you have any members of your immediate family or any close friends attending medical school or pre-med?

18. Do any of you have any relatives, friends or business contacts who are doctors or nurses?

19. Have you or anyone close to you ever worked in any capacity for a doctor, hospital, treatment center or any other kind of medical facility?

20. Have you or anyone close to you ever had any business dealings with doctors or hospitals?

21. Have you or anyone close to you ever sold products or provided services for doctors or hospitals?

22. Have any of you ever been employed in investigating, handling or processing claims for bodily injury, illness or death?

23. Do you or any member of your family or any close friends ever worked for an insurance company?

24. Has anyone close to you ever investigated, handled or processed claims for bodily injury, illness or death?

25. This case involves many technical medical terms. Have any of you had experience with medical terminology?

26. Does anyone think that doctors or other medical professional should be held to a different legal standard than other people? That is, because of their knowledge, training or professional responsibility, they are accountable in different ways than you or I? Has anyone ever thought that?

27. Many times when I have heard jurors discuss the civil case, they will say that the defendant is guilty or not guilty. That is incorrect. Guilt only has to do with criminal cases. In this case, because it is a civil case, we will be talking about negligence. Does anyone have a problem with the fact that guilt goes with criminal cases but not with civil cases?

28. Do all of you understand that this is a civil case and not a criminal case? That means that the verdict that the jury will return will not determine whether anyone or someone is guilty or not guilty of a crime, but rather will determine whether the doctor and/or other medical professional is liable or not liable for acts or omissions of negligence. Do any of you have any problem understanding that?

29. The plaintiffs do not have to prove that the defendants, or either of them, intended to hurt Amanda Barge. The plaintiff has to prove that the defendants, or either of them, caused harm through carelessness or the failure to follow accepted standards for the care by allowing Mrs. Barge to receive radiation substantially greater than that which was prescribed for her. Is there anyone who would have difficulty following the law on this point? What I am really asking is this:

a. Is there anyone who thinks that they would have a hard time holding the doctor and/or medical physicist liable if the doctor and/or medical physicist did not mean to do something wrong?

b. Is there anyone who feels especially indebted to the medical profession? Do any of you think doctors or other medical personnel have done something extraordinary to save lives or have saved someone close to you?

30. Under the law, treatment centers and doctors and medical physicists who work in them can be held accountable if they are negligent. You and I could be held accountable if we run a red light and run into someone. I am a lawyer, but if I run a red light and injury someone in another car, then I can be held accountable for my carelessness likewise, if medical personnel ignore a red light and by their failure to pay attention to the red light, cause someone to be hurt, then they too can be held accountable in a court of law. Do any of you disagree with this law?

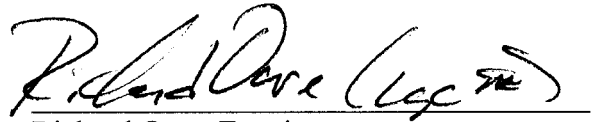
31. Do any of you believe that no matter what the circumstances, people just should not sue doctors or treatment centers?

32. We all know that doctors and medical physicists help a great many people. Just because of this, do any of you believe that there ought to be an exception to the law so that doctors and medical physicists can not be sued?

33. Are you or anyone close to you currently seeing a doctor for treatment of any ongoing illness?

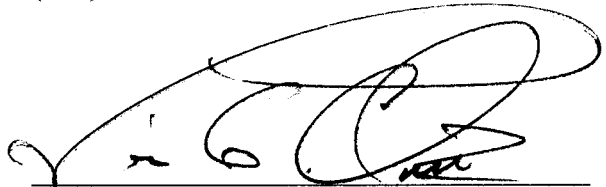
Respectfully submitted,

Dated:



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